

1 MELINDA HAAG (CABN 132612)
United States Attorney

2 MIRANDA KANE (CABN 150630)
Chief, Criminal Division

4 JOSEPH P. AUDAL (NYBN 4786935)
Special Assistant United States Attorney

5 1301 Clay Street, Suite 340S
6 Oakland, CA 94612
7 Telephone: (510) 637-3680
Fax: (510) 637-3724
E-Mail: joseph.audal@usdoj.gov

8 Attorneys for Plaintiff

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 OAKLAND DIVISION

14 UNITED STATES OF AMERICA,) No. CR10-00917 SBA (LB)

15 Plaintiff,)

16 v.)

17 ARMANDO ORNELAS,)

18 Defendant.)

[PROPOSED] ORDER DETAINING
DEFENDANT PENDING TRIAL

19 I. DETENTION ORDER

20 Defendant Armando Ornelas is charged in a one-count indictment with being a Deported
21 Alien Found in the United States, in violation of 8 U.S.C. §§ 1326(a) and (b). On April 1, 2011,
22 the United States moved for the defendant's detention pursuant to 18 U.S.C. § 3142(f)(2)(A)
23 (because there is a serious risk defendant will flee), and subsequently asked for a detention
24 hearing pursuant to 18 U.S.C. § 3142(f). Following a hearing on April 5, 2011, under 18 U.S.C.
25 § 3142(f), and considering the parties' proffer and the factors set forth in section 3142(g), the
26 Court finds that no condition or combination of conditions in section 3142(c) will reasonably
27 assure the defendant's appearance in this case. *See* 18 U.S.C. §§ 3142(e) and (f); *United States v.*
28 *Motamedi*, 767 F.2d 1403, 1406 (9th Cir. 1985).

Specifically, the Court notes the defendant's criminal history, as documented in the Pretrial Services report, his alleged immigration status, and the fact that the defendant is subject to an Immigration and Customs Enforcement detainer hold. The Court, therefore, orders that the defendant be detained pending trial.

The defendant did not request a full bail study at this time, such as an interview by Pretrial Services, but reserved his right to present information at a future bail hearing should his circumstances change. *See* 18 U.S.C. § 3142(f) (a defendant has the right at a section 3142(f) hearing to, with the assistance of counsel, testify, present witnesses, cross-examine adverse witnesses, and present information by proffer or otherwise).

II. CONCLUSION

11 The Court detains the defendant as a serious flight risk and because no condition, or
12 combination of conditions, could assure the defendant's appearance in this case. Because the
13 defendant waived his right to present information under 18 U.S.C. § 3142(f) without prejudice to
14 his raising any relevant information at a later hearing, the Court orders that the hearing may be
15 reopened at the defendant's request at a future time.

16 The Court orders that the defendant be committed to the custody of the Attorney General
17 or a designated representative for confinement in a corrections facility separate, to the extent
18 practicable, from persons awaiting or serving sentences or held in custody pending appeal. *See*
19 18 U.S.C. § 3142(i)(2). The defendant must be afforded a reasonable opportunity to consult
20 privately with counsel. *See id.* § 3142(i)(3). On order of a court of the United States or on
21 request of an attorney for the United States, the person in charge of the corrections facility must
22 deliver the defendant to the United States Marshal for a court appearance. *See id.* § 3142(i)(4).

23 IT IS SO ORDERED.

25 | DATED: April 6, 2011


LAUREL BEELER
United States Magistrate Judge